

## **CARMEL PLAN COMMISSION**

### **Rules of Procedure**

*(Effective November 18, 2014)*

#### **Article I. Authority and Duties**

Section 1. The Carmel Plan Commission (hereinafter called "Commission") exists as an Advisory Plan Commission under the authority of IC 36-7-4-404 and the Zoning Ordinance of the City of Carmel, Indiana, and any amendments thereto. These rules are adopted in accordance with the requirements of IC 36-7-4-401.

Section 2. The duties of the Commission shall be those set forth in IC 36-7-4-400 *et seq.*, and such other responsibilities as may be required by state statute or the Carmel City Code.

#### **Article II. Officers, Members & Employees**

##### Section 1.

A. The Commission shall consist of 11 voting members, appointed in accordance with IC 36-7-4-207 and IC 36-7-4-214 (for those additional members appointed to represent that part of the Commission jurisdiction lying outside the corporate boundaries of the City). In addition, there shall be one advisory member appointed by the Hamilton County Plan Commission. Said advisory member shall have all rights of participation in the deliberations of the Commission except the right to vote.

B. According to IC 36-7-4-216, citizen members of the Commission shall be appointed because of the member's knowledge and experience in community affairs, the member's awareness of the social, economic, agricultural, and industrial problems of the area, and the member's interest in the development and integration of the area. A citizen member may not hold an elected office, or any other appointed office in municipal, county, or state government except for membership on the Carmel Board of Zoning Appeals.

C. Subject to paragraph D, a citizen member must either be a resident of Clay Township, or be a resident of Hamilton County who owns property in Clay Township. In addition, the citizen members who are appointed to represent that part of the Commission jurisdiction lying outside the corporate boundaries of the City must either be residents of the unincorporated area of Clay Township, or be residents of Hamilton County who own property in the unincorporated area. However, at least one of the members who are appointed to represent that part of the Commission jurisdiction lying outside of the corporate boundaries of the City must be a resident of the unincorporated area of Clay Township.

D. At least a majority of the total number of citizen members appointed to the Commission must be residents of Clay Township. The Commission shall determine whether a citizen member meets all applicable residency requirements for appointment in accordance with paragraph E.

E. Whenever a petitioner or interested party raises an issue as to whether a member of the Commission meets all applicable residency requirements, the issue shall be referred to the Executive Committee. Subject to Article XI, Section 4 of these Rules, the Executive Committee shall make a determination on the issue and report its findings and determination to the appointing authority of the respective member.

Section 2. At its first regularly scheduled meeting in each calendar year, the Commission shall elect from its voting membership a president and a vice president. Each shall serve during the period of their membership on the Commission for the balance of the calendar year.

Section 3. The vice president shall act as president of the Commission during the absence or disability of the president.



Section 4. Upon resignation or replacement of the president or vice president as a member of the Commission, the Commission shall elect a successor at its next regularly scheduled meeting.

Section 5. The Commission shall appoint and fix the duties of a secretary, who is not required to be a member of the Commission. The secretary shall be charged with such duties as required under state statutes, Carmel city ordinances, and these rules.

Section 6. One member of the Commission shall be designated as the Commission's representative to the Hamilton County Plan Commission.

Section 7. One member of the Commission shall be designated as the Commission's representative to the Carmel Board of Zoning Appeals.

Section 8. If a vacancy occurs among the members of the Commission, the appointing authority shall appoint a member for the unexpired term of the vacating member. The appointing authority may remove a member pursuant to IC 36-7-4-218(f). In addition, if a member of the Commission misses three consecutive regular meetings, or a total of six meetings of the Commission in any calendar year, that member becomes disenfranchised and shall no longer be considered a viable member of the Commission.

Section 9. The Commission may appoint such employees as are necessary to the discharge of the duties of the Commission. Within its budget allotment, the Commission may fix the compensation of such employees in conformity with salaries and compensation fixed up to that time by the Carmel City Council.

Section 10. Within its budget allotment, the Commission may contract for special or temporary services and for legal counsel.

### **Article III. Meetings**

Section 1. The regular meetings of the Commission shall be the third Tuesday of each month at 6:00 p.m. The location of the meeting shall be in Council Chambers of the City of Carmel, City Hall, One Civic Square, Carmel, Indiana. If the date of a regular meeting falls on a legal holiday, or if it is impossible to conduct the meeting at that time or place, the president may set an alternate date, time or place for the regular meeting, or may cancel the meeting with the unanimous consent of the members of the Commission, provided that the notice requirements of IC 5-14-1.5 are complied with.

Section 2. Special meetings may be called by the president or two members of the Commission upon written request to the secretary. The secretary shall send to all members, at least five calendar days before the special meeting, a written notice fixing the time, place and purpose of the meeting. Written notice is not required if:

- (a) the date, time and place of the special meeting are fixed in a regular meeting;
- (b) all members of the Commission are present at that regular meeting; and
- (c) the secretary complies with the notice requirements of IC 5-14-1.5.

Section 3. The order of business at regular meetings shall be:

- (a) Call to Order
- (b) Pledge of Allegiance
- (c) Roll Call
- (d) Determination of Quorum
- (e) Consideration of Minutes of Previous Meeting



- (f) Communications, Bills, and Expenditures
- (g) Report of Officers and Committees (and Staff, if applicable)
- (h) Public Hearings
- (i) Old Business
- (j) New Business
- (k) Adjournment

Section 4. The president of the Commission shall preside over meetings, decide questions of order, subject to appeal by Commission members, and preserve decorum in the meeting room. The president shall pronounce the decisions of the Commission for purposes of recording in the minutes.

Section 5. No one who is not a member of the Commission shall be permitted to address the Commission except by request to and consent of the president.

Section 6. A. For purposes of this section and Sections 7 and 8 of this Article, words and phrases that appear in quotation marks have the meanings set forth in IC 5-14-1.5-2.

B. Except as permitted in IC 5-14-1.5-6.1 (relating to “executive sessions”), all “meetings” of the Commission and its committees must be open to the public as required by IC 5-14-1.5 (the Indiana Open Door Law).

Section 7. A. Pursuant to IC 5-14-1.5-3.1 (relating to serial gatherings), Commission members are prohibited from participating in any series of gatherings which meets all of the following criteria:

- (1) When one of the gatherings is attended by not less than three nor more than five Commission members and the other gatherings include at least two Commission members.
- (2) When the sum of the number of different Commission members attending any of the gatherings at least equals six.
- (3) When all the gatherings concern the same subject matter and are held within a period of not more than seven consecutive days.
- (4) When the gatherings are held to take “official action” on “public business”.

B. For purposes of this section, a Commission member attends a gathering if the member is present at the gathering in person or if the member participates in the gathering by telephone, computer, videoconferencing, or any other electronic means of communication, excluding electronic mail.

C. A gathering under this section does not include:

- (1) a social or chance gathering not intended by any member to avoid the requirements of IC 5-14-1.5;
- (2) an onsite inspection of any:
  - (A) project;
  - (B) program; or
  - (C) facilities of applicants for incentives or assistance from the Commission;
- (3) traveling to and attending meetings of organizations devoted to the betterment of government;
- (4) a “caucus”;
- (5) a gathering to discuss an industrial or a commercial prospect that does not include a conclusion as to recommendations, policy, decisions, or “final action” on the terms of a request or an offer of public financial resources;



- (6) an orientation of Commission members on their role and responsibilities as public officials, but not for any other "official action";
- (7) a gathering for the sole purpose of administering an oath of office to an individual; or
- (8) a gathering that includes less than six Commission members which is intended solely for members to receive information and deliberate on whether a member or members may be inclined to support another member's proposal or any other matter that may be heard or considered by the Commission and at which no other "official action" will occur.

**Section 8.** A. A Commission member who is not physically present at a "meeting" of the Commission may communicate with other Commission members during the "meeting" by telephone, computer, videoconferencing, or any other electronic means of communication, including electronic mail. However, such a member:

- (1) may not participate in "final action" taken at the "meeting"; and
- (2) may not be considered to be present at the "meeting" for quorum purposes.

B. The minutes of any "meeting" in which a Commission member participates by using a means of communication described in Paragraph A must state the name of:

- (1) each member who was physically present at the place where the "meeting" was conducted;
- (2) each member who participated in the "meeting" by using a means of communication described in Paragraph A; and
- (3) each member who was absent.

C. A Commission member may communicate with other Commission members (other than during a "meeting" of the Commission) by telephone, computer, videoconferencing, or any other electronic means of communication, including electronic mail, so long as such communications include less than six Commission members and are intended solely for the Commission members to receive information and deliberate on whether a member or members may be inclined to support another member's proposal or any other matter that may be heard or considered by the Commission and involve no other "official action".

D. A Commission member may communicate with members of a committee (other than during a "meeting" of the committee) by telephone, computer, videoconferencing, or any other electronic means of communication, including electronic mail, so long as such communications include less than three committee members and are intended solely for the committee members to receive information and deliberate on whether a member or members may be inclined to support another member's proposal or any other matter that may be heard or considered by the committee and involve no other "official action".

#### **Article IV. Official Action**

**Section 1.** A majority of the members of the Commission who are qualified to vote shall constitute a quorum. Action of the Commission shall not be official unless it is authorized at a regular or properly called special meeting by a majority of the entire membership of the Commission.

**Section 2.** Decisions of the Commission shall be by a show of hands, by roll call vote or by written ballot of the members. All members present shall vote on every question unless they are permitted to abstain by the presiding officer, or in the case of a zoning matter, have disqualified themselves because of a conflict of interest as defined under Section 3 of this Article.



Section 3. No member of the Commission shall participate in a hearing, discussion, or decision of the Commission upon any zoning matter in which the member has a direct or indirect financial interest. A "zoning matter" includes an ordinance amendment or a rezoning but does not include the preparation or adoption of a comprehensive plan. A member shall declare his or her known conflict of interest. The Commission shall enter into its records the fact that the member has such a disqualification.

Section 4. In the event a majority vote of the Commission cannot be achieved due to absences, permitted abstentions, or disqualifications, the matter shall be rescheduled for the next regular meeting.

Section 5. Any member of the Commission who voted with the majority may call for a reconsideration of any vote at the same meeting of the Commission at which it passed, and, if sustained by a majority of the votes, the reconsideration shall be ordered.

#### **Article V. Minutes and Records**

Section 1. The secretary of the Commission shall prepare and maintain minutes of its meetings. The minutes shall include the vote of each member on each question presented or indicate that the member is absent, abstaining with permission, or not voting because of disqualification.

Section 2. The minutes of the Commission meetings and all records shall be filed in the office of the Commission and are public record, as defined by IC 5-14-3 (the Indiana Access to Public Records Act).

Section 3. The minutes shall be presented to the Commission for approval at the next succeeding regular meeting. When approved, the minutes shall be signed by the president and attested by the secretary.

#### **Article VI. Docketing**

Section 1. Each case to be heard before the Commission shall be filed in proper form with the required data and shall be numbered serially. The docket numbers shall include the year and begin anew on January 1 of each year and be identified as follows:

- PP - Primary Plat
- PP Amend - Primary Plat Amendment
- SP - Secondary Plat
- SP Amend - Secondary Plat Amendment
- SW - Subdivision Waiver
- PV - Plat Vacation
- CP - Comprehensive Plan
- CP Amend - Comprehensive Plan Amendment
- OA - Amendment to the Zoning or Subdivision Ordinance
- DP - Development Plan
- DP AMEND - Development Plan Amendment
- Z - Rezoning
- ZW - Zoning Waiver
- CM - Commitment Modification or Termination
- P - Amendment of Comprehensive Plan
- ADLS - Site plan, Architectural Design, Landscaping, Lighting and Signage
- ADLS AMEND - Site plan, Architectural Design, Landscaping, Lighting and Signage Amendment



Section 2. If the Director of the Department of Community Services (DOCS) finds that the petition is in good order with sufficient information and material for Commission consideration (as described in Section 4 of this Article), the Director shall assign a docket number to the matter.

Section 3. As soon as an item that requires a public hearing receives a docket number, it shall be placed on the agenda of the Commission by the Director of DOCS and a date and time set for the public hearing. The Director shall endeavor to arrange the agenda for each regularly scheduled meeting so that it contains no more than seven items requiring a public hearing. Items shall come before the Commission in the regular order of their consecutive numbers unless otherwise ordered by the Commission.

Section 4. The deadline for placement of an item (which does not require a Public Hearing) on the Commission agenda for the regularly scheduled meeting shall be 4:30 p.m. 45 calendar days prior to the meeting. The deadline for placement of an item on the agenda of a standing committee for any meeting shall be 4:30 p.m. 14 calendar days prior to the meeting.

No item shall be placed on the agenda of the Commission or a standing committee until all information and material to be presented to the Commission by the petitioner has been submitted to DOCS for review and judged to be in compliance with DOCS standards. All material regarding an agenda item including items requiring a Public Hearing shall be mailed to each member of the Commission or committee by DOCS (unless previously mailed by the petitioner) no later than seven calendar days prior to the meeting. Presentation of required filing documents at the meeting, as established by DOCS, shall require the Commission or committee to suspend these rules to proceed with further action on the petition. Failure to suspend the rules will prohibit further action on the petition until the next regularly scheduled meeting of the full Commission or committee.

Section 5. Any application to the Plan Commission which involves land usage in any way (such as a DP or PP) shall be sent to the Technical Advisory Committee (TAC) for its review and recommendations prior to being heard by the Plan Commission.

The TAC may require additional information in order to conduct a thorough review and make its recommendations to the Plan Commission. Therefore, it may request of the applicant or the Director that additional studies be conducted or that expert advice be engaged by the City. The cost of such additional studies or expert advice shall be the responsibility of the applicant.

Section 6. ADLS only petitions are not required to go to a committee; the Commission may act on an ADLS petition the same night it is presented.

## **Article VII. Public Hearings/Notice Requirements**

Section 1. The Commission shall hold such public hearings as are required by state statute and city ordinances. Items requiring Public Hearings are as follows, but not limited to: Development Plan, Primary Plat, Vacation of a Plat, Change Official Zoning Map (Rezone), Amend/Repeal/Change Text of the Zoning Ordinance, Subdivision Control Regulations or Comprehensive Plan, or other matter under jurisdiction of the Commission. The Commission may hold additional hearings at such times and places upon such notice as it considers necessary.

Section 2. A petitioner who seeks to vacate a plat, change the official zoning map (rezone), amend the text of the zoning ordinance, subdivision control regulations or comprehensive plan, or other matter under jurisdiction of the Commission shall file a petition with Commission. Two copies of the petition,



application, or plats must be filed with the Commission at least 60 days prior to a regularly scheduled Commission meeting.

Section 3. All petitions not initiated by the Commission itself shall be accompanied by a non-refundable filing fee in an amount established by the Carmel Zoning Ordinance, Section 29.06.

Section 4. For the purpose of amending the previous section dealing with filing fees, the Commission shall publish a public notice in a newspaper of general circulation which conforms to sections 9 and 10 of this Article.

Section 5. The Commission may require additional information, data, statistics, or plats beyond those established by statute or ordinance which are deemed necessary for intelligent determination by the Commission.

Section 6. The petitioner is hereby designated by the Commission as the party responsible for preparing the legal advertisement of the public hearing for the approval of the Commission and shall bear the expense of the advertising cost.

Section 7. A. When a Public Hearing is required for an amendment to the Comprehensive Plan notice shall be given to all interested parties as follows:

- (1) All interested parties shall constitute the general public, residents, and property owners of the jurisdiction.
- (2) Notice will be given by publication in a daily newspaper of general circulation in the County.
- (3) It shall be the responsibility of the petitioner to publish the notice.

B. When a Public Hearing is required for any ministerial or administrative determination to be made by the Commission, notice shall be given to the general public as described in Paragraph A and shall also be sent by certified letter to all interested parties as follows:

- (1) Interested parties shall be the owners of real estate lying within 660 feet of the subject property, or a depth of two property ownerships, whichever is less, as shown by a certified issue of the Auditor of Hamilton County (or an adjacent county as described below), or by a title insurance company and dated not more than 45 days prior to the date of the public hearing.
- (2) If the subject of the proposal abuts or includes a county line, or a county line or road, or a county line body of water, all owners of real property to a depth of two ownerships or 1/8 of a mile into the adjacent county are interested parties (pursuant to IC 36-7-4-604(c)) and must receive notice.

C. When a Public Hearing is required for any ministerial or administrative determination to be made by the Commission, the petitioner shall also serve notice to the general public by placing a sign per the approval of Staff on the subject property. The sign shall be placed no less than 25 days prior to the public hearing and removed no more than three days after.

Section 8. A. When a public notice of hearing is required for the amendment to the wording or text of the Zoning Ordinance under IC 36-7-4-607, it shall be given to interested parties as follows:

- (1) Interested parties shall be the residents of the jurisdiction of the Plan Commission and of the two adjoining counties.
- (2) Notice will be by publication in a daily newspaper of general circulation in the county.
- (3) It will be the responsibility of the petitioner to publish all of said notices.



B. When a Public Hearing is required for a rezone by an amendment to the zone maps under IC 36-7-4-608, then notice shall be given as follows:

- (1) Interested parties shall be the owners of real estate lying within 660 feet of the subject property, or a depth of two property ownerships, whichever is less, as shown by a certified issue of the Auditor of Hamilton County (or an adjacent county as described below), or by a title insurance company and dated not more than 45 days prior to the date of the Public Hearing.
- (2) If the subject of the proposal abuts or includes a county line, or a county line or road, or a county line body of water, all owners of real property to a depth of two ownerships or 1/8 of a mile into the adjacent county are interested parties (pursuant to IC 36-7-4-604(c)) and must receive notice.
- (3) The petitioner will be the person responsible for causing the notice to be sent by certified letter, and will be responsible for publishing the notice as required in this paragraph.
- (4) This certified letter shall include an area location map of the subject property.

C. When a Public Hearing is required for a rezone by an amendment to the zone maps under IC 36-7-4-608, the petitioner shall also serve notice to the general public by placing a sign per the approval of Staff on the subject property. The sign shall be placed no less than 25 days prior to the public hearing and removed no more than three days after.

Section 9. The Commission shall require the petitioner to notify by certified letter all persons deemed by State Statute and the Commission to be interested parties as defined above. This certified letter shall include an area location map of the subject property. However, when an amendment to the zone maps under IC 36-7-4-608 would rezone the subject property or properties to any Park and Recreation District, the petitioner shall notify by certified letter all owners of the subject property but shall not be required to notify by certified letter the owners of interested parties as defined above. Notice of hearings on proposals initiated by the Commission pursuant to IC 36-7-4-602(b)(1) or IC 36-7-4-602(c)(1) shall be published or sent not less than 10 days prior to the Public Hearing date (including the date of the hearing). Notice of hearings on all other proposals shall be published or sent not less than 25 days prior to the Public Hearing date (including the date of the hearing). The parties designated in the above sections will be the persons designated by the Commission as the party responsible for causing the notice to be published. For the purposes of consideration, a daily newspaper of general circulation in Hamilton County in accordance with the Indiana Code would be the Noblesville Times.

Section 10. The following information shall be included in both the published legal notice (Section 9) and the notice to interested parties (Section 8): (a) Docket number and the substance of the matter to be heard (b) The legal description of the subject real estate or the tax ID parcel number(s) (c) General location by address, street intersections, or other identifiable geographic characteristic of the property (d) Name of the person, agency or entity initiating the matter to be heard (e) A general description of the petitioner's request of approval (f) Date, time and place of the hearing (g) Statement that the petition may be examined at the DOCS office (h) Statement that any person may offer verbal comments at the hearing or may file written comments prior to or at the hearing (i) Any other information which may be required by law to be contained in such notice.

Section 11. Three working days prior to the date of the public hearing, the petitioner shall deliver to the Office of the Director of DOCS a copy of the notice mailed to the interested parties, a copy of the petitioner's certified mail receipts and an affidavit from the publisher (newspaper) certifying the date that the notice was published.



Section 12. An interested party may waive, at any time, notice of the public hearing by the execution of a written statement addressed to the president or secretary of the Commission stating that such interested party has or had knowledge of the date, time and place of the public hearing, and the nature of petitioner's requested approval and hereby waives notice of such public hearing thereon as required under this Article.

### **Article VIII. Conduct of Public Hearings**

Section 1. At a public hearing before the Commission, the petitioner, property owner, or agent for the petitioner shall first present the facts and arguments in support of the case. Comments and questions from the Commission members may be interjected during the presentation for clarification of the subject matter. Each of those persons who wishes to comment on the petition must address the president and be recognized before speaking. Each person must state his or her name and community that he or she resides in. To maintain orderly procedure, each side should proceed without interruption by the other side.

Section 2. All items for Public Hearing shall be presented in the following manner:

- Petitioner's Presentation – 15 minutes
- General Public Comments Favorable – 5 minutes
- Organized Remonstrance Unfavorable – 15 minutes
- General Public Comments Unfavorable – 5 minutes
- Petitioner's Rebuttal – 5 minutes
- Staff Comments – As requested for explanation or at the end of the public hearing.

At the discretion of the majority of the Commission members present the above time may be extended. There should be no time for rebuttal of the rebuttal; however, should it occur the petitioner shall always be given the opportunity to give final rebuttal (per Roberts Rules of Order).

Section 3. The president shall close the public hearing after hearing the staff comments (if any). The president shall distribute or read all written public comments on the petition received by the Commission secretary, whether submitted in paper or electronic format. All public comments should be directed to the Commission secretary, who shall then distribute them to all Commission members and enter them into the public record.

Section 4. After the public hearing is formally closed and any comments and questions from the Commission and/or Staff have been heard, the president shall then assign the matter to the appropriate committee. The president must close the public hearing before assigning the matter to committee, unless these Rules are suspended in accordance with Article XII, Section 2 herein.

Section 5. If the Staff and Commission's questions and concerns have been satisfactorily answered during the public hearing, then final action may be taken on a matter at the close of the hearing without the matter being assigned to committee. However, to take final action at this time, a suspension of the Rules in accordance with Article XII, Section 2 is required.

Section 6. In the presentation of a case, the burden shall be upon the petitioner to supply all information, including charts, diagrams and other exhibits necessary for a clear understanding of the project. The Commission may continue the hearing when in its judgment the petitioner has not provided sufficient evidence on which to make a determination.

Section 7. Every person appearing before the Commission shall abide by the order and directions of the president. Discourteous, disorderly or contemptuous conduct shall be regarded as a breach of the privileges of the Commission and shall be dealt with as the Commission directs. Applause in support of



statements is an example of discourteous conduct which will not be condoned. In addition, the president shall have the authority to prohibit repetitious and irrelevant testimony and shall have the authority to limit the length of testimony by each speaker as deemed appropriate to a fair and efficient public hearing.

Section 8. The Commission, at its discretion, may permit a petitioner to make amendments or modifications to a proposal pending before it, or may continue or postpone the hearings of any case.

#### **Article IX. Final Disposition of Cases**

Section 1. After consideration of any reports and recommendations of DOCS, the final disposition of any case shall be in the form of a decision or report, setting forth, when deemed appropriate, the recommendation (if any), findings and determinations of the Commission, together with any modifications, specifications or limitations which it makes. In any case in which the Commission is required to make written findings along with a final decision, the Commission may adopt findings as submitted by the petitioner or by any interested party, with or without modifications, specifications or limitations, or the Commission may delegate to Staff and/or legal counsel the authority to prepare written findings. When written findings are required, the Commission's findings shall be executed by the president and secretary of the Commission and filed in the office of the Commission within 45 days after the date of the Commission's final decision.

Section 2. The Commission may dismiss a case for lack of prosecution or lack of jurisdiction. When a petitioner has failed to appear at two consecutive meetings, the case may be dismissed for lack of prosecution. With respect to a Secondary Plat, when the Secondary Plat has been pending before Staff for three consecutive months, Staff may request that the Commission dismiss the case for lack of prosecution. Staff shall notify the petitioner by mail, not less than 10 days before presenting the request to the Commission, that Staff will seek the Commission's approval to dismiss the Secondary Plat petition.

Section 3. A petitioner may not withdraw a case after a vote has been ordered by the president.

Section 4. A case which has been withdrawn by the petitioner shall not be placed on the docket again for consideration within a period of six months after the date of withdrawal. A new case involving the same property that was the subject of a case which has been withdrawn by any petitioner shall not be placed on the docket for consideration within a period of three months after the date of withdrawal.

Section 5. A case which has been decided adversely to the petitioner shall not be placed on the docket again for consideration until the legality of the Commission's decision is finally determined pursuant to IC 36-7-4-1000 *et seq.*, or for a period of 12 months following the date of the adverse decision previously rendered, whichever is later. A new case involving the same property that was the subject of a case which has been decided adversely to any petitioner shall not be placed on the docket for consideration until the legality of the Commission's decision is finally determined pursuant to IC 36-7-4-1000 *et seq.*, or for a period of six months following the date of the adverse decision previously rendered, whichever is later.

Section 6. Because the Commission's recommendation (if any) is only advisory in matters of rezones and text amendments to the Zoning Ordinance, Subdivision Control Regulations, or Comprehensive Plan, all such matters shall be certified to the Common Council for its consideration in accordance with state statute. The Commission's recommendation (if any) on any such matter may then be followed or overturned by the Common Council in accordance with state statute and the rules of the Council.

Section 7. Pursuant to IC 36-7-4-1015(a), as a condition to the: a) Adoption of a Rezoning proposal; b) Primary approval of a proposed Subdivision Plat or Development Plan; or c) approval of a vacation of all or part of the Plat; the Commission may require or allow the owner of a parcel of real property to make a



commitment to the Commission concerning the use or development of that parcel. Pursuant to IC 36-7-4-1015(c), the Commission hereby declares that the criteria to be considered when an owner applies for the modification or termination of a commitment made under these Rules are the same criteria that applied to the proposal when the Commission originally recommended adoption or granted approval, as the case may be."

#### **Article X. Reconsideration of Rezone Proposals**

Section 1. The Commission may not further consider for one year any proposal to amend the zoning map (rezone) which has been defeated under subsection (f)(3), (g)(3), or (g)(4) of IC 36-7-4-608.

Section 2. The Commission may not further consider for six months any proposal to amend the zoning map (rezone) which has been withdrawn by the petitioner, regardless of whether it is withdrawn while it is pending on the Commission's docket or pending before the Common Council.

Section 3. If a new proposal to amend the zoning map (rezone) involves the same property that was the subject of a defeated proposal, as described in Section 1 above, the new proposal may not be considered by the Commission until six months have elapsed from the date the defeated proposal was defeated under subsection (f)(3), (g)(3), or (g)(4) of IC 36-7-4-608.

Section 4. If a new proposal to amend the zoning map (rezone) involves the same property that was the subject of a withdrawn proposal, as described in Section 2 above, the new proposal may not be considered by the Commission until three months have elapsed from the date the withdrawn proposal was withdrawn.

Section 5. A rezone proposal that is restricted from consideration under this Article shall not be assigned a docket number or placed on the Commission's agenda before the expiration of the restriction period, unless these Rules are suspended in accordance with Article XII, Section 2 herein.

#### **Article XI. Committees**

Section 1. The regular meetings of the Commission's Standing Committees (Subdivision and Special Study Committees) shall be on the first Tuesday of each month at 6:00 p.m. in the Caucus Rooms (on the north side of the Council Chambers of the City of Carmel), City Hall, One Civic Square, Carmel, Indiana or other such time, date, place as designated by the Commission.

Section 2. A. The Special Study Committee shall be appointed by the president of the Commission, for one year and shall meet as required. Vacancies shall be filled immediately by the president.

B. The Special Study Committee shall review in detail, and file a written report with the Commission on the proposals presented to the Commission at public hearing and referred to the Committee for further study. In addition, pursuant to IC 36-7-4-402(d), the Commission hereby designates and empowers the Special Study Committee to review, and approve or disapprove, all ADLS Amendment petitions that are filed with and docketed by DOCS.

Section 3. A. The Subdivision Committee shall be appointed by the president of the Commission, for one year and shall meet as required. Vacancies shall be filled immediately by the president.

B. The Subdivision Committee shall review in detail, and file a written report with the Commission, on the proposals presented to the Commission and referred to the Committee which deal specifically with Primary Plat Applications, Residential Planned Unit Developments, matters specifically concerning the design and operation of all subdivisions, and other matters which are from time to time assigned to it by the Commission. In addition, pursuant to IC 36-7-4-402(d), the Commission hereby designates and



empowers the Subdivision Committee to review, and approve or disapprove, all Primary Plat Amendment petitions that are filed with and docketed by DOCS.

C. The Commission hereby designates and appoints the Executive Committee of the Commission as its plat committee pursuant to IC 36-7-4-701(e). Secondary Plats and related construction plans may be presented by Staff to the Executive Committee for resolution when not all concerns have been resolved between Staff and the petitioners. However, the Executive Committee may act under this paragraph only if the petitioner has given 25 days notice of the Executive Committee meeting to the same interested parties who received notice of the Primary Plat petition under Article VII of these Rules. Otherwise, the Commission hereby delegates to Staff the authority to grant Secondary Plat approvals, in accordance with IC 36-7-4-710.

D. Pursuant to IC 36-7-4-709(c), the Director shall determine, based on inspections conducted by Staff, whether all improvements and installations as shown on the Primary Plat have been constructed and completed as required by the Subdivision Control Ordinance. However, in accordance with IC 36-7-4-709(a) and (b), approval may be granted to a Secondary Plat for a subdivision in which the improvements and installments have not been completed as required by the Subdivision Control Ordinance, if:

(1) the petitioner provides a bond, or other proof of financial responsibility as prescribed in the Subdivision Control Ordinance, that: (A) is an amount determined by the Commission or Executive Committee to be sufficient to complete the improvements and installations in compliance with the Ordinance; and (B) provides surety satisfactory to the Commission or Executive Committee; or

(2) with respect to the installation or extension of water, sewer, or other utility service: (A) the petitioner shows by written evidence that it has entered into a contract with the political subdivision or utility providing the service; and (B) the Commission or Executive Committee determines based on written evidence that the contract provides satisfactory assurance that the service will be installed or extended in compliance with the Subdivision Control Ordinance.

Section 4. A. The Executive Committee shall consist of the president, vice president, chairperson of the Subdivision Committee, chairperson of the Special Study Committee, and an at-large member elected by the Commission. A majority of the Executive Committee may act in the name of the Commission; but if there are any dissenting votes, a person voting in the minority may appeal the decision of the Executive Committee to the Commission.

B. The Executive Committee shall recommend rule changes and act in the name of the Commission on all administrative matters. The Executive Committee shall meet to consider matters which are brought before it by the president, who shall serve as the chairperson of the Executive Committee. The Executive Committee shall recommend procedures for resolving special issues and concerns brought to the Commission for consideration.

Section 5. The president shall take geographical distribution into consideration when establishing membership of said committees.

Section 6. Additional committees may be formed and appointed by the president of the Commission for purposes and terms which the Commission approves.

Section 7. The chairpersons of the Subdivision and Special Study Committees shall be elected by the members of the Committees.



Section 8. Committees shall keep minutes of their proceedings showing the vote of each question presented.

Section 9. A majority of the members of a Committee shall constitute a quorum. Action of a Committee shall not be official unless it is authorized at a regular or properly called special meeting by a majority of the entire membership of the Committee.

Section 10. If less than a majority of members of a committee are present, the president may appoint himself or other Commission members to hear and vote the matters pending before that committee.

Section 11. Any and all Committee and Executive Session meetings of the Commission shall be open to all members of the Commission. However, attendance at a Committee meeting by a majority of the entire membership of the Commission shall not convert such Committee meeting into a meeting of the Commission, for purposes of Article IV of these Rules, nor shall any action taken at such a meeting be deemed the official action of the Commission.

Section 12. Upon any matter assigned or referred to a Committee, the petitioner may summarize arguments and the Committee may question further. The Committee shall not conduct a further or additional public hearing after the president of the Commission has formally closed the public hearing on a matter in accordance with Article VIII, Section 3 of these Rules. However, the chairperson has the discretion to allow for comments and questions from the public on any matter pending before the Committee, subject to Section 14 below.

Section 13. After the Staff and Committee's questions and concerns have been satisfactorily answered, then the Committee may take action on a matter. The Committee, at its discretion, may permit a petitioner to make amendments or modifications to any proposal pending before it, or may continue its discussion of any proposal until satisfactory amendments or modifications are submitted for its consideration. The Committee may also continue its discussion of any matter when in its judgment the petitioner has not provided sufficient evidence on which to make a determination.

Section 14. Every person appearing before a Committee shall abide by the order and directions of the chairperson. Discourteous, disorderly or contemptuous conduct shall be regarded as a breach of the privileges of the Committee and shall be dealt with as the Committee directs. Applause in support of statements is an example of discourteous conduct which will not be condoned. In addition, the chairperson shall disallow repetitious and irrelevant testimony and shall have the authority to limit the length of testimony by any speaker as deemed appropriate to a fair and efficient public meeting.

Section 15. After consideration of any reports and recommendations of DOCS, the final disposition of any matter within the Committee's sole jurisdiction shall be in the form of a decision setting forth the findings and determinations of the Committee together with any modifications, specifications or limitations which it makes. In any case in which the Committee is required to make written findings along with a final decision, the Committee may adopt findings as submitted by the petitioner or by any interested party, with or without modifications, specifications or limitations, or the Committee may delegate to Staff and/or legal counsel the authority to prepare written findings. When written findings are required, the Committee's findings shall be executed by the chairperson of the Committee and secretary of the Commission and filed in the office of the Commission within 45 days after the date of the Committee's final decision.

Section 16. The disposition of any matter that has been assigned to the Committee by the president of the Commission for a recommendation shall be in the form of a committee report, setting forth the Committee's recommendation (if any), together with any modifications, specifications or limitations



which it may recommend to the Commission. The Committee's recommendation (if any) on any such matter may then be followed or overturned by the Commission in accordance with state statute, city ordinances, and these rules. In any case in which the Commission will be required to make written findings along with a final decision, the Committee may recommend that the Commission adopt findings as submitted by the petitioner or by any interested party, with or without modifications, specifications or limitations, or the Committee may recommend that Staff and/or legal counsel be granted the authority to prepare written findings.

Section 17. Regarding any matter that has been assigned to a Committee by the president of the Commission for a recommendation, if the Committee fails to forward its recommendation to the Commission within two months because of an inability to meet the quorum requirements of this Article, then the Commission may, upon motion of any Commission member, remove the matter from the Committee's jurisdiction and take further action on the matter without receiving any recommendation from the Committee, all in accordance with state statute, city ordinances, and these rules.

#### **Article XII. Miscellaneous**

Section 1. Roberts Rules of Order are hereby incorporated by reference and made a part of these Rules and shall control on issues and procedures not expressly provided for herein.

Section 2. Proposed additions to, alterations, and amendments or repeal of these Rules of Procedure may be presented by the Executive Committee at any regular or special meeting of the Commission. Such additions, alterations, or amendments may be adopted only upon the affirmative vote of a majority of the members of the Commission. The suspension of any rule may be ordered at any meeting by a two-thirds vote of the Commission (8 of 11).

#### **Article XIII. Repeal**

All previous rules and regulations heretofore published by the Carmel Plan Commission, City of Carmel Plan Commission, or Carmel/Clay Township Plan Commission are hereby superseded and replaced by these rules, as of November 18, 2014.

Rules of Procedure of the Carmel Plan Commission of the City of Carmel, Hamilton County, Indiana, effective as of November 18, 2014, approved by the affirmative vote of a majority of the members of said Commission at the regular meeting of said Commission held on the 18<sup>th</sup> day of November, 2014.

Attest:

  
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Lisa Motz, Plan Commission Secretary